

THE HONORABLE JOHN H. CHUN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMAZON.COM, INC., a Delaware corporation  
and AMAZON.COM SERVICES LLC, a  
Delaware limited liability corporation,  
  
Plaintiffs,  
  
v.  
  
Individuals and entities doing business as the  
Amazon Brand Registry Account VIVCIC; and  
DOES 1-10,  
  
Defendants.

Case No.: 2:23-cv-00486-JHC

**PLAINTIFFS' *EX PARTE* MOTION FOR  
REFERRAL TO MAGISTRATE JUDGE  
FOR DISCOVERY PURPOSES PURSUANT  
TO 28 U.S.C. § 636 (b)(1)(A)**

**NOTE ON MOTION CALENDAR:**  
September 8, 2023

Pursuant to 28 U.S.C § 636(b)(1)(A), Plaintiffs Amazon.com, Inc. and Amazon.com Services LLC (collectively, “Amazon”) hereby respectfully move the Court for an order referring pending and forthcoming motions regarding pre-service discovery and alternative methods of service on identified defendants to the magistrate judges identified in General Order 03-23 for resolution.

### **BACKGROUND**

On March 7, 2023, the Court issued General Order 03-23 regarding the Counterfeit Enforcement Actions filed by Amazon. The General Order provides that District Court judges may refer Counterfeit Enforcement Actions brought by Amazon to designated magistrate judges, who “shall formulate and utilize common practices and procedures for reviewing and determining requests for pre-service discovery and alternative service methods.” General Order 03-23 at 3. Under that Order, Amazon is required in such actions to file a notice “identifying the matter as a Counterfeit Enforcement Action subject to this General Order.” *Id.* at 2.

On March 30, 2023, Plaintiffs filed their Complaint against Defendants for their fraudulent takedown scheme where they abused procedures that Amazon developed for legitimate owners of copyrights and other intellectual property rights to seek removal of allegedly infringing materials from amazon.com (the “Amazon Store”). ECF No. 1. Along with the Complaint, Plaintiffs filed a letter alerting the Court that this action shares certain elements with Amazon’s Counterfeit Enforcement Actions and expected to request leave for pre-service discovery and to engage in alternative methods of service on identified defendants. ECF No. 1-6. Plaintiffs submitted the notice in the event the Court deemed it appropriate to refer this action to one of the designated magistrate judges under that Order for service-related issues. *Id.* Plaintiffs now seek a referral to one of the magistrate judges designated under General Order 03-23.

### **ARGUMENT**

A District Court judge may “designate a magistrate judge to hear and determine any pretrial matter pending before the court, except [for certain dispositive motions].” 28 U.S.C. § 636(b)(1)(A); *see also* Local Rules W.D. Wash. MJR 3(a) (“a full-time magistrate judge may, upon reference by a

district judge, hear and determine any non-dispositive pretrial matter in a case pending before the district judge, other than those matters excluded by 28 U.S.C. § 636(b)(1)(A).”).

Amazon now requests that the Court refer this matter to one of the magistrate judges identified in General Order 03-23, namely Judges Michelle L. Peterson, Brian A. Tsuchida, and S. Kate Vaughan, to oversee motion practice on pre-service discovery and alternative methods of service on identified defendants.

While this action is not a Counterfeit Enforcement Action, this action and two similar actions also filed on March 30, 2023<sup>1</sup> share certain elements with Amazon’s Counterfeit Enforcement Actions. ECF No. 1-6. In particular, Amazon has filed a motion to expedite discovery to confirm whether the individuals identified in the documents submitted to Amazon actually registered the relevant Amazon account and are involved in this scheme, or if those documents were falsified or contain fraudulent information. ECF No. 15. This is similar to the leave requested for “pre-service discovery” in the Counterfeit Enforcement Actions which also had issues relating to the identification of named and unnamed defendants. General Order 03-23 at 2. As in the Counterfeit Enforcement Actions, “pre-service discovery” is needed here as the defendants also willfully submitted fraudulent documents to obscure their identities. *See id.*; ECF No. 1 at ¶ 46. Additionally, like in the Counterfeit Enforcement Actions, Amazon expects to request leave for authority “to engage in alternative methods of service on the identified defendants” in this matter. General Order 03-23 at 2; ECF No. 1-6. Indeed, the discovery issues and motions in this matter are ongoing and share common issues and challenges with the discovery issues in Amazon’s Counterfeit Enforcement Actions.

### **CONCLUSION**

For the foregoing reasons, pursuant to 28 U.S.C. § 636(b)(1)(A), Plaintiffs respectfully request that the Court refer pending and forthcoming motions regarding pre-service discovery and alternative methods of service on identified defendants to the magistrate judges identified in General Order 03-23.

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<sup>1</sup> *Amazon.com Inc. v. Dhuog*, Case No. 2:23-cv-00484-JHC; *Amazon.com Inc. v. Sidesk*, Case No. 2:23-cv-00485-JHC.

1 *I certify that this memorandum contains 663 words.*

2 Dated: September 8, 2023

Respectfully submitted,

3 FENWICK & WEST LLP

4  
5 By: /s/ Brian Buckley

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**LCR 7(e) WORD-COUNT CERTIFICATION**

As required by Western District of Washington Local Civil Rule 7(e), I certify that this memorandum contains 663 words.

Dated: September 8, 2023

FENWICK & WEST LLP

By: /s/ Brian D. Buckley  
Brian D. Buckley, WSBA No. 26423